UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA,

v. 09-CR-722 (MGC)

PAUL GREENWOOD,

Defendant. Sentencing

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New York, N.Y.
December 3, 2014
12:22 p.m.

Before:

HON. MIRIAM GOLDMAN CEDARBAUM,

District Judge

APPEARANCES

PREET BHARARA
United States Attorney for the
Southern District of New York
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ALSO PRESENT: KAI SCHULTZ, Paralegal, Hafetz & Necheles LLP

(Case called)

THE COURT: Paul Greenwood?

I will hear anything you want to tell me about sentence and I will hear anything your lawyer wants to tell me about sentence. I have read all of the material that you've given me.

First, let me ask you, have you read the revised presentence report?

THE DEFENDANT: Yes, I have.

THE COURT: Is there any error in it that you would like to bring to my attention?

MR. HAFETZ: Your Honor, if I may, there is not.

THE COURT: Very well. Then I will hear anything you want to tell me and anything your lawyer wants to tell me in connection with sentence.

MR. HAFETZ: Your Honor, if it's okay, I would like to speak first and then Mr. Greenwood has a short statement.

THE COURT: Very well.

MR. HAFETZ: Thank you, your Honor, and good morning.

Your Honor, Mr. Greenwood has pled guilty to a very serious fraud before this court. Very shortly after the guilty plea, he entered into a cooperation agreement with the U.S. Attorney's Office and has cooperated with them since that time in 2009. The Second Circuit in the *Douglas* case, which we mention in our memorandum, states that cooperation with the government is significant in terms of expressing defendant's remorse and also significant in terms of the benefit to society that it provides to law enforcement.

Your Honor, Mr. Greenwood has, as your Honor knows and has read, 82 letters that have been submitted on his behalf. Quite frankly, it's more letters than I've ever had submitted to a court for sentencing.

THE COURT: But not more than I have had.

MR. HAFETZ: Probably not, your Honor. And the letters are extremely important in terms of really telling the story of Mr. Greenwood's life. As Judge Rakoff has stated in the *Adelson* case, "Surely if ever a man is to receive credit for the good he has done and his immediate misconduct assessed in the context of his overall life hitherto, it should be at the moment of the sentencing when his future hangs in the balance." The letters indeed express Mr. Greenwood's good deeds, your Honor, and when we say good deeds, I mean good deeds are really the manifestation of really I believe core values of Mr. Greenwood, which is that he is innately a person who, throughout his life, prior to the fraud, during the fraud, after the fraud, has really sought to help many people. I think he has an innate compassion to help others. As his wife Robin states -- she's here in the court today, and she states in her letter to the court, "Paul is always the first person to offer his time and support to almost anyone who needs his help."

I would like to talk briefly about the letters, your Honor, because I think they are so important in terms of filling out the picture of the whole man who will be sentenced by your Honor today.

Many of the letters, your Honor, talk about the good deeds that Mr. Greenwood has done prior to the fraudulent conduct. The fraudulent conduct began in the latter part of the 1990s. Many of the letters talk about what Mr. Greenwood did for people well before the fraud period. It wasn't because he was enabled by the fraud to help people that he became a good person who was interested in helping people, but I believe --

THE COURT: Well, he certainly didn't help his investors.

MR. HAFETZ: Excuse me?

THE COURT: He certainly did not help his investors.

MR. HAFETZ: He did not, your Honor, and he's acknowledged that and he's pled guilty and takes full responsibility for that, but in terms of filling out the picture of the kind of person he is, which is what Section 3553 looks to in terms of getting a picture of the history and characteristics of the individual, they show that really, throughout his life, Mr. Greenwood has been someone who has really looked to do exceptional things for people. The letters from the persons who Mr. Greenwood put through college and paid for their tuition -- I'm talking now prior to the fraud -- there's a letter of Alice Debany, a letter from George Zabrecky, there's a letter from Seth Hostetter. Some of these people are present, amongst the many friends and family who are in court today. And Alice Debany, in her letter -- and again, this is well before the fraud period -- talks about, "I met Paul Greenwood in 1986 when I was 17." She had some troubles at the time. She said. "I somehow knew that Paul was the right person to confide in. He was fatherly in his concern and he gave excellent advice as to how to go about getting out of my situation. He also had an open door to his stable to provide me with a job as soon as I needed one. He offered me a life-changing proposal. If I worked for him, he wanted me to go to university and he would pay for all my tuition. I went to New York University for five years at night while working full time for him. He continued to be like a father to me. He read all of my papers. He gave me all kinds of advice about life and was supportive of every venture I took on."

The other letter writers in that period whose tuition he paid for talk about the life-changing experience that he gave to them and but for Mr. Greenwood, they would never have had the opportunity.

The letter writers, prior to the fraud period, talk about Mr. Greenwood extending himself to people who had medical problems and serious health problems. There's a letter from a letter writer. One of the letter writers, Charlie Weaver, was suffering from a serious accident. It was Mr. Greenwood at that time who came to his aid, paid for his medical care, and really got him back to the point where he was no longer paralyzed with his aid.

There are people in the prefraud period who talk about Mr. Greenwood giving them money, helping them out to start their businesses. Many of these people, by the way, your Honor, are persons who Mr. Greenwood would look to help throughout his life. They were disadvantaged people, some physically disadvantaged, some mentally disadvantaged, blue collar people, people who had fallen on hard times, and really it's a testament to his character and his nature that these are people that he would look to help and did. He would unstintingly give his help to anyone who sought it and even those who didn't seek it.

There's a letter from a woman who actually sits in the court today with the wonderful name of Wondrous Jones, and she writes -- again, this is all in the prefraud period -- she had a disability of having polio as a young child and her lifelong dream as she grew up was to be able to develop into a horseback rider, an equestrian, notwithstanding her disability. She talks about how Mr. Greenwood came to her aid both financially and also, because of just the generosity of his selfless nature, enabled her to actually compete in the Paralympics as a horseback rider, which were for disabled people.

The letters I think are very strong. Here I'm really just talking about the prefraud letters that really I think are a testament to really the innate nature of Mr. Greenwood. Notwithstanding that he is a criminal and has committed serious fraud, in the full scale and dimension of the human being that gets sentenced by the court, I believe that these are extremely important.

The letter writers go on during the next decades to talk about Mr. Greenwood continuing to help people and do many good deeds. Some of the letter writers talk about financial assistance. He enabled people to go to college continually because of his financial assistance. And some are not in the nature of financial assistance. They're just in the nature of Paul Greenwood coming to help people.

There's a letter from an individual who had a serious health condition. Mr. Greenwood basically took over becoming their advocate with the insurance company; someone who was suffering, actually, from cancer. Mr. Greenwood was able to get them full treatment because of the time and concern that he spent with them.

There are many letter writers, both before and after the fraud period, who talk about Mr. Greenwood giving them jobs. There are people who had immigration problems. Edgar

Bustamante talked about, in the prefraud period, how Mr. Greenwood brought his family up from Venezuela to help hire an immigration lawyer, help support him for a visa and, actually, when they had no housing, when the family got here, he provided housing for them. This is in the prefraud period. Later he went on to pay for college for the daughter Corina, after they were settled here.

There's a letter from Rosemarie DeAngelis, a woman who lived nearby the property that Mr. Greenwood lived on, who writes about when she had a serious environmental issue in her home, it was a toxic environment, she had to move out, Mr. Greenwood offered immediately to have her and her family come live with him in his house and ultimately gave her housing, put her up somewhere else at her choice for a period of time. And again, he continued helping with those who had immigration problems. It wasn't just money. It was a question of time, it was a question of compassion for them, it was a question of listening to them, and a question really of him devoting himself out of compassion to the problems that people had.

There are a number of letters, huge number, your Honor, who I believe really are really a testament to I think what are core and innate values of Paul Greenwood as a human being who has looked throughout his life to help individuals I think in an extremely significant and meaningful way and I believe they are significant at this time, as *Adelson* said, at this time when the good deeds become part of the perspective as well as the wrongful conduct that the individual is going to be sentenced on, and it could be no other way, because that really is what the Judeo-Christian system is about. I mean, this is judgment day and we judge a man by all his deeds, wrongful and good, and on the good side of the ledger, they are extremely powerful for Mr. Greenwood.

Unfortunately, your Honor, part of the history and characteristics of Mr. Greenwood involve some family issues, and I believe that they are a proper factor with regard to the sentencing. He and his wife Robin have two adopted daughters, and since childhood the daughters, particularly the oldest one, now a teenager, have suffered some serious emotional and psychological problems, suffering throughout really much of her growing up period really uncontrollable rages, going into fits and destroying things, threatening to throw herself out of windows, and cars, and it's a sad situation. Throughout this Mr. Greenwood has been probably the most stabilizing influence in their life. As his wife Robin sadly writes in her letter to the court, a long jail sentence, the damaging effect of it, they fear, would really cause the daughter Karen, as she puts it, to slide back into a dark and awful place, to use her words. The younger daughter Laura, although not suffering as severely as Karen, has also suffered with her own emotional problems. Throughout it, Mr. Greenwood has been a mainstay and a stabilizing influence in the road to gaining a place where they would have mental health.

Your Honor, as the court knows, the government has written a 5K1 cooperation letter in this case, and we, in our own memorandum, also discuss Mr. Greenwood's cooperation. I believe it's fair to say that the cooperation with the government was timely, prompt, came almost immediately after the arrest, longstanding, it's continued for five years, it has been truthful -- it's not one of these situations where a cooperator wavered and was giving untruthful testimony. The government found him to be truthful I believe throughout. And it was substantial. As the government describes it in their letter, they state, "Without doubt, Greenwood provided substantial assistance. Had Walsh, the co-defendant, gone to trial, Greenwood's testimony against him would have been critical and devastating. During each proffer session Greenwood provided clear and credible evidence that was thoroughly corroborated. Based on those proffer sessions, the government made the determination that Greenwood would present powerful evidence at trial against his business partner, Walsh. Greenwood would have been the only government witness at trial who could have provided a detailed and comprehensive narrative of the multiyear fraud and Walsh's critical and knowing role in it. Furthermore, Greenwood assisted the government substantially in its preparation for the pretrial *Monsanto* hearing before this court." So though Greenwood did not testify, he helped prepare the government and the FBI agent for the hearing. But for Greenwood's cooperation and candor during these pretrial/prehearing preparation sessions, the government would not have been able to put on the thorough and convincing evidence it did before this court. Since February 2009, Greenwood aided the government and the receiver in investigating the finances of WG Trading and WG Investors and in marshaling the assets that had been and will be available for victims. In connection with the lengthy investigation by the receiver, Greenwood made available information to the receiver which to date has permitted the receiver to recover close to 90 percent of the investors' claims, or about $900 million.

The aid of Greenwood I believe was a substantial factor in obtaining and having the co-defendant in this case, Walsh, go to trial. So I believe his cooperation is extremely strong here and it is, I submit, your Honor, a highly significant factor. I note the recommendation in the presentence report by the probation office after they received the cooperation information regarding Mr. Greenwood of a five-year prison sentence. Also the cooperation, as noted in the government's letter and in the sentencing memo prepared by us, has also substantially assisted the receiver appointed by the court with regard to the recovery of the assets, the business and personal assets.

Finally, your Honor, I would note that Mr. Greenwood has -- and I believe the caselaw recognizes this also as a significant factor with regard to sentencing -- in postarrest, in addition to cooperating with the government and the receiver, he has done extensive volunteer work, since 2009 right up to the present time. First, in New York, where he and his family lived at the time, he spent substantial time using his skills in tutoring programs for Veterans Hospital, and later in North Carolina, where he moved with his wife in 2011 and lives at present, in tutoring programs there. The tutoring programs in the VA Hospital are for veterans, obviously, and often they were people who had some mental disability. The tutoring also involved, besides the VA, homeless people, disadvantaged people, disabled people, and Mr. Greenwood helped them, many of them obtain GEDs, the equivalent of a high school degree, so they could go on and get a further education or join the workforce. In North Carolina he has done the same thing with tutoring there, and he has enabled people there, also persons who had been disadvantaged, to be able to receive an education that enabled them to go further for higher education and for jobs. His work with these people, your Honor, as the letters note, was not just limited to the tutoring, as good a thing as that was, where he completely devoted himself, but he often found himself involving himself in their lives to the extent of driving them to doctor's appointments and being involved in terms of giving advice in their lives and really in a way that personally enabled them to advance and help themselves beyond just the tutoring, which was significant in their lives. The head of the tutoring program in North Carolina, Beth Daniels, writes that "Mr. Greenwood has repeatedly gone out of his way to assure that his students achieve their desired goals. As a direct result of his efforts, seven adults in the program now have immeasurably better lives than they did prior to staying under his tutelage. These adults, together with the staff members at the volunteer agency, are keenly aware of the positive impact Paul had within his community." The total hours that he has spent on the volunteer program since 2009 add up to approximately 3,000 hours just from the tutoring and the work, not counting the outside help he has given these people. That would be the equivalent of two full years of work in the last five that he has spent with the disadvantaged people. I submit that he has done this out of the belief that this is the right thing to do, it's a belief of the need for contrition, remorse, and understanding of the guilt, for the time that he has committed and his innate desire to help people, be there for them, and to better their lives.

Your Honor, considering the entire facts, the seriousness of the crime, as your Honor has pointed out, and in addition to the other factors that the sentencing statute says must be taken into consideration, namely, the history and characteristics of the individual, and weighing those all together and taking into account the enormous good that Mr. Greenwood has done throughout his life really because of his innate desire to want to do those and to help people, your Honor, I would respectfully request that the court sentence Mr. Greenwood in accord with the recommendation made by the pretrial services agency, office, of five years in prison. Thank you, your Honor.

I think Mr. Greenwood would like to address the court briefly.

THE COURT: Very well.

THE DEFENDANT: Thank you. I'd like to apologize to the court for my serious criminal conduct. I stand before the court today accepting full responsibility for my actions. I've lied, I've cheated, and I have stolen. Words cannot express my sorrow and remorse for what I've done.

Also, I would like to apologize to those of you who put their trust in me, to those of you who considered me a friend, and to those of you who loved me, especially my wife Robin, our two daughters, my brother and sister, my relatives, and my in-laws. I am truly sorry for the grief and the heartache that my actions have caused you.

Thank you.

THE COURT: Very well. I have read all of the submissions, and I don't have to tell you, because you are an intelligent man, how much damage you did do before you became sorry about it. I have given you great credit for cooperation, but that was also in part self-protective. It was not entirely charitable. There are a number of people today who lost many thousands of dollars as a result of your fraud, and you had no difficulty for a long period of time living much better than the people who invested their money through you in the hopes that what you were telling them was accurate. And the loss of that money was very devastating for many of them. I would like to think that part of the reason you ultimately cooperated was because you recognized that yourself.

But at this time I sentence you to ten years in prison, which is on all of the counts taken together, really, and some of them are shorter periods than others because of the statutory provision. On Count One, the sentence is five years. On Count Two, Four, and Five, ten years. On Three and Six, ten years, to run concurrently with Counts Two, Four, and Five, and concurrently with Count One.

I am required to also impose a period after you're released from prison of three years of supervised release on all counts, concurrently.

Restitution, I take it the government will submit the amount to me.

MR. NAFTALIS: That's correct, your Honor.

THE COURT: Which I will include, because there's no question that you should restore a lot of money to a lot of people. And the restitution will be determined and included in the final judgment.

There is also a special assessment of $100 per count, which amounts to $600 in this case. I take it you are able to pay that promptly, the $600.

THE DEFENDANT: Yes.

THE COURT: Very well. I hope, Mr. Greenwood, that you really do feel the remorse and that you will be thinking about all of this very carefully while you are serving prison time, that you will come out of prison recognizing that you really do not want to live this kind of life again and that you do not want to do the kind of things that you have previously done, largely because you really wanted to have a lot of money. There's no other reason for the kind of fraud that you engaged in, which cheated other people out of a lot of money. I hope you will think about that carefully while you are in prison and that you will really resolve to change your outlook on life and on other people. And if you do spend your time in prison doing that, I wish you good luck.

Is there anything further? I assume the government has nothing to add.

MR. NAFTALIS: Your Honor, I assume that your Honor, in fashioning the sentence, has granted the government's motion to sentence --

THE COURT: I granted your 5K1. I not only granted it, I performed it.

MR. NAFTALIS: And I think your Honor has already signed the consent order of forfeiture, but just if you could announce it, in addition to advising the defendant of his right of appeal and the conditions of supervised release.

THE COURT: He did not waive his right of appeal in his plea?

MR. NAFTALIS: No, your Honor.

THE COURT: Until recently you required that in your pleas.

MR. NAFTALIS: This is a cooperator sentencing, your Honor.

THE COURT: Well, even cooperators have been required to waive their appeal rights.

MR. NAFTALIS: In this agreement, your Honor, the defendant has not waived his right.

THE COURT: Very well. All right. What I am being reminded, Mr. Greenwood, is that you have ten days in which to decide whether you want to appeal my sentence to the Court of Appeals, which you are entitled to do, and you should discuss with your lawyer whether you wish to do that. You should discuss it with him promptly so that if you want to file an appeal, he can do that for you within the time allotted.

MR. HAFETZ: Your Honor, if I may, two things. I would ask if your Honor --

THE COURT: I will give you the privilege of voluntary surrender.

MR. HAFETZ: Yes. Can we make that in 60 days, your Honor? I don't think the government --

THE COURT: It's longer than that. It takes longer, generally.

MR. HAFETZ: Well, should they make the decision sooner, I would ask that it be at least 60 days, your Honor, so he can organize his affairs and --

THE COURT: Very well. What I will do is set a deadline. I will give you the privilege of surrendering to the institution that the Bureau of Prisons assigns you to by February 9, at 2:00 in the afternoon.

MR. HAFETZ: Your Honor, I have one other request. The request is, would your Honor recommend to the Bureau of Prisons that Mr. Greenwood serve his sentence at the satellite camp at FCI Butner, North Carolina. His family lives in North Carolina and --

THE COURT: I will recommend that he be designated to an institution close to where his family lives, which is what you're asking.

MR. HAFETZ: Well, there are different levels of institutions.

THE COURT: I do not choose the level. That's something the Bureau of Prisons does.

MR. HAFETZ: I know the ultimate decision is with the Bureau of Prisons, your Honor, but --

THE COURT: I know that they try to place everybody close to their families for many reasons, but I do not normally choose the designation, or recommend a designation because I don't know enough about the facilities.

What city in North Carolina are we talking about?

MR. HAFETZ: It's in Butner, your Honor, North Carolina, which I believe is not too far from where his family lives. He is eligible for the camp facility.

THE COURT: I don't know anything about that. The Bureau of Prisons has established many policies about placement of prisoners, and I do not know enough about the facilities involved to choose among them. I would have to do more research to do that.

MR. HAFETZ: I'm sorry, your Honor?

THE COURT: I would have to do more research to decide whether that is appropriate.

MR. NAFTALIS: Your Honor, just in terms of the housekeeping, if you could orally pronounce the forfeiture and the terms of supervised release.

THE COURT: Very well. I have signed a preliminary order of forfeiture, which is a consent order. It sets out forfeiture that has been agreed to. And I believe you all have copies of that document.

MR. NAFTALIS: Yes, your Honor. That's sufficient. And if your Honor is going to just follow the PSR on the standard and/or special conditions --

THE COURT: I will follow the standard and the special conditions. I will include those, the special and standard conditions for supervised release.

MR. NAFTALIS: Thank you, your Honor.

THE COURT: Very well. Is there anything further?

MR. NAFTALIS: Not from the government.

MR. HAFETZ: No, your Honor.

THE COURT: Very well. Then you are all excused.

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